

IN THE SUPREME COURT OF THE STATE OF DELAWARE

EDWARD GIBBS,	§	
	§	No. 124, 2011
Petitioner Below,	§	
Appellant,	§	Court Below—Superior Court
	§	of the State of Delaware in and
v.	§	for Sussex County
	§	
STATE OF DELAWARE,	§	
	§	C.A. No. S11M-02-023
Respondent Below,	§	Cr. ID No. 0305016899
Appellee.	§	

Submitted: May 24, 2011

Decided: July 29, 2011

Before **HOLLAND, BERGER** and **JACOBS**, Justices.

O R D E R

This 29th day of July 2011, upon consideration of the opening brief filed by the appellant, Edward Gibbs, and the motion to affirm filed by the appellee, State of Delaware, it appears to the Court that:

(1) In 2003, following Edward Gibbs' conviction of Escape after Conviction, the State filed a motion to declare Gibbs a habitual offender. At sentencing, the Superior Court granted the State's motion, declared Gibbs a habitual offender and sentenced him to twenty years at Level V imprisonment, followed by six months of Level IV work release. On direct

appeal, this Court affirmed the judgment of the Superior Court.¹ In 2006, the Court affirmed the denial of Gibbs' motion for postconviction relief.²

(2) In April 2009, Gibbs filed a motion for correction of sentence. Gibbs alleged that the State had not established that he was the same Edward Gibbs who was convicted of the predicate offenses listed in the habitual offender motion. By order dated May 4, 2009, the Superior Court denied Gibbs' motion for correction of sentence as without merit. On appeal, this Court affirmed the judgment of the Superior Court.³

(3) Fifteen months later, Gibbs filed a petition for a writ of habeas corpus. Gibbs again claimed that the State had not established that he was the same Edward Gibbs as had committed the predicate offenses cited in the State's habitual offender motion. By order dated February 24, 2011, the Superior Court denied the habeas corpus petition. This appeal followed.

(4) Gibbs has not demonstrated that he is entitled to habeas corpus relief. It is clear to the Court that the Superior Court had jurisdiction over

¹ *Gibbs v. State*, 2005 WL 535011 (Del. Supr.).

² *Gibbs v. State*, 2006 WL 3455097 (Del. Supr.).

³ *See Gibbs v. State*, 2009 WL 3260807, n.6 (Del. Supr.) (noting that Gibbs, although fully apprised of the documentary evidence the State intended to rely on in support of the habitual offender motion, did not raise his claim of mistaken identity at sentencing, on direct appeal, in his motion for postconviction relief, or in a prior motion for correction of sentence).

the crime for which Gibbs was convicted and that the commitment of Gibbs to the custody of the Department of Correction is valid on its face.⁴

NOW, THEREFORE, IT IS ORDERED that the State's motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Carolyn Berger
Justice

⁴ *Curran v. Woolley*, 104 A.2d 771, 773 (Del. 1954).